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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

Mark Cooper,

Plaintiff,

v.

Jasney Robertson,

Defendants.

Case No. 2:24-cv-01637-CDS-BNW

**SCREENING ORDER AND
REPORT AND RECOMMENDATION**

Pro se plaintiff Mark Cooper initiated this lawsuit by filing an application to proceed *in forma pauperis* and a complaint. ECF Nos. 1, 1-1. Plaintiff submitted the affidavit required by 28 U.S.C. § 1915(a) showing an inability to prepay fees or costs or give security for them. Accordingly, the court will grant his request to proceed *in forma pauperis*. The court now screens his complaint.

I. ANALYSIS

A. Screening standard

Upon granting a request to proceed *in forma pauperis*, a court must screen the complaint under 28 U.S.C. § 1915(e)(2). In screening the complaint, a court must identify cognizable claims and dismiss claims that are frivolous, malicious, fail to state a claim on which relief may be granted or seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2). Dismissal for failure to state a claim under § 1915(e)(2) incorporates the standard for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6). *Watison v. Carter*, 668 F.3d 1108, 1112 (9th Cir. 2012). To survive § 1915 review, a complaint must “contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.” *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). The court liberally construes pro se complaints and may only dismiss them “if it appears beyond doubt that the plaintiff can prove no set of facts in support of

1 his claim which would entitle him to relief.” *Nordstrom v. Ryan*, 762 F.3d 903, 908 (9th Cir.
2 2014) (quoting *Iqbal*, 556 U.S. at 678).

3 In considering whether the complaint is sufficient to state a claim, all allegations of
4 material fact are taken as true and construed in the light most favorable to the plaintiff. *Wylor*
5 *Summit P’ship v. Turner Broad. Sys. Inc.*, 135 F.3d 658, 661 (9th Cir. 1998) (citation omitted).
6 Although the standard under Rule 12(b)(6) does not require detailed factual allegations, a plaintiff
7 must provide more than mere labels and conclusions. *Bell Atlantic Corp. v. Twombly*, 550 U.S.
8 544, 555 (2007). A formulaic recitation of the elements of a cause of action is insufficient. *Id.*
9 Unless it is clear the complaint’s deficiencies could not be cured through amendment, a pro se
10 plaintiff should be given leave to amend the complaint with notice regarding the complaint’s
11 deficiencies. *Cato v. United States*, 70 F.3d 1103, 1106 (9th Cir. 1995).

12 **B. Screening the complaint**

13 Plaintiff alleges the following: he entered into a contract with defendant, Jasney
14 Robertson, for the rental of a car. Pursuant to the contract, defendant was to carry insurance.
15 Defendant got into an accident, totalled the vehicle, and did not have insurance to pay for the
16 repairs. As a result, Plaintiff sues for breach of contract. Plaintiff alleges that he and defendant
17 reside in Nevada and that the damages at issue are \$31,000. As explained in more detail below,
18 the Court will recommend that the Court dismiss Plaintiff’s complaint for lack of jurisdiction.

19 “Federal district courts are courts of limited jurisdiction, possessing only that power
20 authorized by Constitution and statute.” *K2 Am. Corp. v. Roland Oil & Gas, LLC*, 653 F.3d 1024,
21 1027 (9th Cir. 2011) (quotation omitted). Federal district courts “have original jurisdiction of all
22 civil actions arising under the Constitution, laws, or treaties of the United States,” otherwise
23 known as federal question jurisdiction. 28 U.S.C. § 1331. Federal district courts also have original
24 jurisdiction over civil actions in diversity cases “where the matter in controversy exceeds the sum
25 or value of \$75,000” and where the matter is between “citizens of different States.” 28 U.S.C.
26 § 1332(a). “Section 1332 requires complete diversity of citizenship; each of the plaintiffs must be
27 a citizen of a different state than each of the defendants.” *Morris v. Princess Cruises, Inc.*, 236
28 F.3d 1061, 1067 (9th Cir. 2001).

1 Plaintiff also has not established federal question jurisdiction as there is no federal law or
2 statute that governs the contract in question. Regarding diversity jurisdiction, Plaintiff alleges that
3 he resides in Nevada, as does defendant, Jansey Robertson. In addition, the amount in controversy
4 does not exceed \$75,000.00. Accordingly, there is not complete diversity. As a result, whatever
5 claims Plaintiff may have against defendant must be litigated in state court, which is a court of
6 general jurisdiction.

7 **II. CONCLUSION**

8 **IT IS THEREFORE ORDERED** that plaintiff's application for leave to proceed *in*
9 *forma pauperis* (ECF No. 1) is **GRANTED**. Plaintiff is permitted to maintain this action to
10 conclusion without prepaying fees or costs or giving security for them.

11 **IT IS FURTHER ORDERED** that the clerk of court must detach and separately file
12 Plaintiff's complaint (ECF No. 1-1).

13 **IT IS FURTHER RECOMMENDED** that Plaintiff's complaint be dismissed without
14 leave to amend.

15 **NOTICE**

16 This report and recommendation is submitted to the United States district judge assigned
17 to this case under 28 U.S.C. § 636(b)(1). A party who objects to this report and recommendation
18 may file a written objection supported by points and authorities within fourteen days of being
19 served with this report and recommendation. Local Rule IB 3-2(a). Failure to file a timely
20 objection may waive the right to appeal the district court's order. *Martinez v. Ylst*, 951 F.2d 1153,
21 1157 (9th Cir. 1991).

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23 DATED: September 10, 2024

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26 BREND A WEKSLER
27 UNITED STATES MAGISTRATE JUDGE
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